

business method patent applications after 18 months. In conjunction with the publication provision, it creates opportunities for the public to present prior art or public use information before a business method patent issues. It establishes an administrative "Opposition" process where parties can challenge a granted business method patent in an expeditious, less costly alternative to litigation. The bill lowers the burden of proof for challenging business method patents, requires an applicant to disclose its prior art search, and finally, creates a rebuttable presumption that a business method invention constituting a non-novel computer implementation of a pre-existing invention is obvious, and thus, not patentable.

The Patent Improvement Act of 2001 would establish an administrative "Opposition" process where parties can challenge any granted patent in an expeditious, less costly alternative to litigation. The bill creates a rebuttable presumption that any invention constituting a non-novel computer implementation of an existing invention is obvious, and thus, not patentable. Finally, the bill requires an applicant to disclose its prior art search.

The PTO funding Resolution creates a point of order regarding any legislation that does not allow the PTO to spend all fees collected in the year in which they are collected.

Some may consider the coordinated introduction of these three bills an unusual approach. Indeed, it will be noted that the first two bills overlap—that is, they contain many of the same provisions applied to different, but overlapping types of patents. We have chosen this approach because we consider all the bills to be improvements over current law, but are not sure which bills will generate sufficient support to be enacted this Congress. Further, we consider the PTO funding Resolution to be a necessary element of any plan to improve patent quality, but recognize that such legislation will generate its own debate.

I have decided to forge ahead through these thorny issues because my concerns about the quality and effects of business method patents have not dissipated or diminished during the past year. The pace of business method patenting has picked up dramatically. While in FY 1999, the PTO received approximately 2650 business method patent applications, in FY 2000 it received 7800 such applications. The PTO reports that the first quarter of FY 2001 has seen business method applications running 18–20% higher than in Q1 of FY 2000. I commend the PTO for reducing the proportion of business method patents granted through its Business Method patent Initiative, but there is some concern that this Initiative will extend patent pendencies further.

We will not know what business methods are claimed in these applications for at least eighteen months after filing, and in all probability for at least twenty-six months. Some consider this a problem in itself, as technology businesses attempting to move at Internet speed may invest enormous sums of ever-dwindling venture capital only to find important elements of their business plan covered by a patent. This is an unfortunate by-product of the patent system, but I do not believe we should address it by prohibiting patents on business methods or requiring publication upon filing.

Of greater concern to me is assuring the highest quality of business method patents being issued. Unfortunately, those business methods patents of which we are aware do not give us much confidence about the quality of those yet to be published. Last year, I cited as examples of concern a patent granted for a method of allowing automobile purchasers to select options for cars ordered over the Internet, and a patent that purportedly covered the selling of music and movies in electronic form over the Internet. This year I add to that list a patent for a method of operating a fantasy football league over the Internet, a patent covering incentive programs using the Internet, a patent covering the use of targeted banner advertising over the Internet, and a patent covering a system for previewing music samples over the Internet.

I do not pretend to know whether any of these patents are valid or invalid. However, many respectable parties, including patent lawyers, patent-holding technology companies, and academics, have expressed serious concerns about the quality of such patents.

I would like to see a patent system that subjects these patents to more rigorous review, and thus provide greater assurance that they are valid when issued. If there may be ways to improve the prior art available to patent examiners before they issue a patent, we should explore them. If there are ways to decrease the costs of challenging bad patents, we should enact them into law. And if retention of fees will result in better trained, more experienced examiners with access to better resources, we should let the PTO keep the fees.

As I said last Congress: "The bottom line in this: there should be no question that the U.S. patent system produces high quality patents. Since questions have been raised about whether this is the case, the responsibility of Congress is to take a close look at the functioning of the patent system in this very new, and rapidly growing area of patenting."

#### A TRIBUTE TO DIANA B. WOOTEN

#### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 3, 2001*

Mr. TOWNS. Mr. Speaker, I rise today to bring special recognition to one of Brooklyn's shining stars, Diana B. Wooten.

Diana is the daughter of Joseph and Councilwoman Priscilla Wooten and a life long resident of the East New York community of Brooklyn. She is a prominent part of the Wooten extended family that consists of herself, her brother Donald, sister Deborah and three nephews. Her nephews are also her "godsons" and she takes this responsibility seriously. Diana is committed to being totally involved in guiding their development.

After obtaining a Bachelor of Arts in Psychology/Sociology from the State University of New York at Albany, she returned to her roots better known as Brooklyn, New York and began an outstanding career in the health service community. On the record and off the record, Diana is always involved in assisting others. She currently serves as Chief Execu-

tive Officer of the Greater Bright Light Home Care Services in East New York. She has worked for the Health Science Center of New York, LaGuardia Hospital and Cumberland Diagnostic and Treatment Center.

Diana is well known but is still a very private person. She does so many good deeds anonymously to better the lives of others. One among the many is currently serving as President of Single Working Parents, a group that gives respite care to single working parents of children from ages 5 to 13. She is a life-long member of the Grace Baptist Church where the current pastor is the Rev. Jacob N. Underwood. She is an active member of Grace Baptist where she also sings in the choir.

Because of her contributions to Brooklyn, Diana is more than worthy of receiving our recognition today. I hope that all of my colleagues will join me in honoring this truly remarkable woman.

IN HONOR OF MS. FRANCIS D.  
ALLEMAN-LUCE (1924–2001)

#### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 3, 2001*

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay tribute to Francis D. Alleman-Luce, a civil rights advocate and life-long community leader. Ms. Alleman-Luce, who suddenly passed away last week, was a civil rights organizer, an educator, and a member of numerous community and philanthropic groups. Her son, Mr. Jim Tendean Luce, has arranged the service to be held at the Madison Avenue Baptist Church in my district, where he serves as the moderator.

Ms. Alleman-Luce was an extraordinary woman far ahead of her time. Born in 1924 in Hingham, Massachusetts, Ms. Alleman-Luce graduated from Hingham High School and Wheelock College. During World War II, she worked as an entertainer for troops on leave. After the War, she married Stanford Luce and the family moved to New Haven, Connecticut until 1952, when they again moved to Oxford, Ohio. In 1964, the family moved to Paris, returning to Ohio the next year.

Ms. Alleman-Luce played an active role in the American Civil Rights Movement during the 1960s, training Freedom Riders as they gathered in Oxford, Ohio before driving to Mississippi. In 1969, Ms. Alleman-Luce completed her masters' degree in Educational Psychology at Miami University in Oxford. In 1972, following her divorce, Ms. Alleman-Luce moved to Marietta, Ohio with her then 12-year-old son Jim to begin a career as a school psychologist.

Following her retirement, Ms. Alleman-Luce moved back to her college town of Brookline, Massachusetts, where she became involved with the P.E.O. Sisterhood, an organization for women that stresses the value of educational achievement and philanthropic community service.

Ms. Alleman-Luce was an exceptional individual and a caring mother. She is survived by her brother Dudley Alleman, Jr., her sister Irene Alleman Beale, and her four children, Stan, Molly, Rick, and Jim.

Ms. Alleman-Luce's life was one of adventure, ambition, and a willingness to strive for a better world. A proud lifelong Democrat, a friend of the disenfranchised, and a caring educator, Ms. Alleman-Luce will be sorely missed.

# INTRODUCTION OF THE ROCKY MOUNTAIN NATIONAL PARK WILDERNESS ACT

## HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 3, 2001*

Mr. UDALL of Colorado. Mr. Speaker, today I am again introducing a bill to designate as wilderness most of the lands within the Rocky Mountain National Park, in Colorado. This legislation will provide important protection and management direction for some truly remarkable country, adding nearly 250,000 acres in the park to the National Wilderness Preservation System.

The bill is essentially identical to one previously introduced by my predecessor, Representative DAVID SKAGGS, and one I introduced in the 106th Congress. Those bills in turn were based on similar measures proposed, including some by former Senator Bill Armstrong and others.

Over a number of years my predecessor and I have worked with the National Park Service and others to refine the boundaries of the areas proposed for wilderness designation and consulted closely with many interested parties in Colorado, including local officials and both the Northern Colorado Water Conservancy District and the St. Vrain & Left Hand Ditch Water Conservancy District. These consultations provided the basis for many of the provisions of the bill I am introducing today, particularly regarding the status of existing water facilities.

Covering some 94 percent of the park, the new wilderness will include Longs Peaks and other major mountains along the Great Continental Divide, glacial cirques and snow fields, broad expanses of alpine tundra and wet meadows, old-growth forests, and hundreds of lakes and streams, all untrammelled by human structures or passage. Indeed, examples of all the natural ecosystems that make up the splendor of Rocky Mountain National Park are included in the wilderness that would be designated by this bill.

The features of these lands and waters that make Rocky Mountain National Park a true gem in our national parks system also make it an outstanding wilderness candidate. The wilderness boundaries are carefully located to assure continued access for use of existing roadways, buildings and developed areas, privately owned land, and areas where additional facilities and roadwork will improve park management and visitor services. In addition, specific provisions are included to assure that there will be no adverse effects on continued use of existing water facilities.

This bill is based on National Park Service recommendations, prepared more than 25 years ago and presented to Congress by President Richard Nixon. It seems to me that,

in that time, there has been sufficient study, consideration, and refinement of those recommendations so that Congress can proceed with this legislation. I believe that this bill constitutes a fair and complete proposal, sufficiently providing for the legitimate needs of the public at large and all interested groups, and deserves to be enacted in this form.

It took more than a decade before the Colorado delegation and the Congress were finally able, in 1993, to pass a statewide national forest wilderness bill. Since then, action has been completed on bills designating wilderness in the Spanish Peaks area of the San Isabel National Forest as well as in the Black Canyon of the Gunnison National Park, the Gunnison Gorge, and the Black Ridge portion of the Colorado Canyons National Conservation Area. We now need to continue making progress regarding wilderness designations for deserving lands, including other public lands in our state that are managed by the Bureau of Land Management. And the time is ripe for finally resolving the status of the lands within Rocky Mountain National Park that are dealt with in the bill I am introducing today.

All Coloradans know that the question of possible impacts on water rights can be a primary point of contention in Congressional debates over designating wilderness areas. So, it's very important to understand that the question of water rights for Rocky Mountain National Park wilderness is entirely different from many considered before, and is far simpler. To begin with, it has long been recognized under the laws of the United States and Colorado, including a decision of the Colorado Supreme Court, that Rocky Mountain National Park already has extensive federal reserved water rights arising from the creation of the national park itself.

Division One of the Colorado Water Court, which has jurisdiction over the portion of the park that is east of the continental divide, has already decided how extensive the water rights are in its portion of the park. In December, 1993, the court ruled that the park has reserved rights to all water within the park that was unappropriated at the time the park was created. As a result of this decision, in the eastern half of the park there literally is no more water for either the park or anybody else to claim. This is not, so far as I have been able to find out, a controversial decision, because there is a widespread consensus that there should be no new water projects developed within Rocky Mountain National Park. And, since the park sits astride the continental divide, there's no higher land around from which streams flow into the park, so there is no possibility of any upstream diversions.

As for the western side of the park, the water court has not yet ruled on the extent of the park's existing water rights there, although it has affirmed that the park does have such rights. With all other rights to water arising in the park and flowing west already claimed, as a practical matter under Colorado water law, this wilderness designation will not restrict any new water claims. And it's important to emphasize that any wilderness water rights amount only to guarantees that water will continue to flow through and out of the park as it always has. This preserves the natural environment of the park, but it doesn't affect

downstream water use. Once water leaves the park, it will continue to be available for diversion and use under Colorado law regardless of whether or not lands within the park are designated as wilderness.

These legal and practical realities are reflected in my bill—as in my predecessor's—by inclusion of a finding that because the park already has these extensive reserved rights to water, there is no need for any additional reservation of such right, and an explicit disclaimer that the bill effects any such reservation. Some may ask, why should we designate wilderness in a national park? Isn't park protection the same as wilderness, or at least as good? The answer is that the wilderness designation will give an important additional level of protection to most of the park.

Our national park system was created, in part, to recognize and preserve prime examples of outstanding landscape. At Rocky Mountain National Park in particular, good Park Service management over the past 83 years has kept most of the park in a natural condition. And all the lands that are covered by this bill are currently being managed, in essence, to protect their wilderness character. Formal wilderness designation will no longer leave this question to the discretion of the Park Service, but will make it clear that within the designated areas there will never be roads, visitor facilities, or other manmade features that interfere with the spectacular natural beauty and wildness of the mountains.

This kind of protection is especially important for a park like Rocky Mountain, which is relatively small by western standards. As nearby land development and alteration has accelerated in recent years, the pristine nature of the park's backcountry becomes an increasingly rare feature of Colorado's landscape. Further, Rocky Mountain National Park's popularity demands definitive and permanent protection for wild areas against possible pressures for development within the park. While only about one tenth the size of Yellowstone National Park, Rocky Mountain sees nearly the same number of visitors each year as does our first national park. At the same time, designating these carefully selected portions of Rocky Mountain as wilderness will make other areas, now restricted under interim wilderness protection management, available for overdue improvements to park roads and visitor facilities.

So, Mr. Speaker, this bill will protect some of our nation's finest wild lands. It will protect existing rights. It will not limit any existing opportunity for new water development. And it will affirm our commitment in Colorado to preserving the very features that make our State such a remarkable place to live. So, I think the bill deserves prompt enactment.

I am attaching a fact sheet that outlines the main provisions of this bill:

### ROCKY MOUNTAIN NATIONAL PARK WILDERNESS ACT APRIL, 2001

#### ROCKY MOUNTAIN NATIONAL PARK

Rocky Mountain National Park, one of the nation's most visited parks, possesses some of the most pristine and striking alpine ecosystems and natural landscapes in the continental United States. This park straddles the Continental Divide along Colorado's northern Front Range. It contains high altitude lakes, herds of bighorn sheep and elk,